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10/605,229	09/16/2003	Stephen J Brown	03-0930 / 7553.00098	2228
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HEALTH HERO NETWORK, INC.			RAJ, RAJIV J	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/605,229	<b>Applicant(s)</b> BROWN, STEPHEN J	
	<b>Examiner</b> RAJIV J. RAJ	<b>Art Unit</b> 3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-93 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the amendment filed on 11 September 2008.
2. Claims 1, 3-4, 6-11, 17-18, 20, 22, 30, 33, 35-36, 39-40, 44-45, 47-48, 50-55, 61-62, 64, 66, 72, 76-77, 79-79-81, 83-84 & 89 have been amended.
3. Claims 90-93 have been added.
4. Claims 1-93 are currently pending and have been examined.

### ***Information Disclosure Statement***

5. Information Disclosure Statements filed on 16 July 2008 and 03 September 2008 have been considered. Initialed copies of Forms 1449 are enclosed herewith.

### ***Priority***

6. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1, 3-4, 6-12, 17-20, 22, 24-33, 39-43, 45, 47-48, 50-56, 61-64, 66, 68-77, 83

& 90-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen, III (US 4731726) (hereinafter Allen) in further view of Fu et al. (US 4803625) (hereinafter Fu).

#### **Claim 1**

**Allen as shown, discloses the following limitations:**

- *at least one microprocessor device including a display;* (see at least Allen Fig:1 Item:12 & related text)
- *and a memory;* (see at least Allen Fig:2 Items:152-154 & related text)
- *configured to collect the health-related data based on at least one health condition of the patient;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *remotely located;* (see at least Allen Fig:4 Items:100-106 related text)
- *to receive the health-related data from the microprocessor device;* (see at least Allen Column:4 Lines:51-63)

- *configured to generate health-related information from the health-related data;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *at least one health care professional computer, remotely located;* (see at least Allen Fig:4 Items:100-106)
- *to receive the health-related information;* (see at least Allen Column:4 Lines:51-63)
- *system is configured to transfer one or more computer programs from the central server to the microprocessor device, the computer programs being executed by the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)
- *for collecting the health-related data;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)

Allen does not disclose the following limitations, however Fu, as shown does:

- *at least one central server; from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *in signal communication with the microprocessor device;* (see at least Fu Fig:1 Items:10-62 & related text)
- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *in signal communication with the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the features of Fu into Allen. One of ordinary skill in the art would have added these feature into Allen with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

**Claim 3**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *the microprocessor device is capable of displaying pictorial health-monitoring related information;* (see at least Allen Column:3 Lines:52-63)

**Claim 4**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *the microprocessor device is capable of displaying animated health-monitoring related information;* (see at least Allen Column:3 Lines:52-63)

**Claim 6**

The combination of Allen/Fu disclose all of the limitations of claim 4. Allen further discloses the following limitation:

- *wherein the microprocessor device includes buttons, keys or switches* (see at least Allen Fig:1 Item:11 & related text)

**Claim 7**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *at least one health-monitoring device arranged to communicate health-related data to the central computer; (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)*

**Claim 8**

The combination of Allen/Fu disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *a data management unit configured to (i) facilitate collection of the health-related data from the health monitoring device and (ii) transfer the computer programs . . . to the microprocessor device; (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10, 100-114 & related text)*

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server; (see at least Fu Fig:1 Items:10-62 & related text)*

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

### **Claim 9**

The combination of Allen/Fu disclose all of the limitations of claim 8. Allen further discloses the following limitation:

- *the data management unit facilitates collection of health-related data by receiving data related to the monitored condition from at least one of the health-monitoring devices; (see at least Allen Column:1 Lines:50-68)*

### **Claim 10**

The combination of Allen/Fu disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *at least one of the health-monitoring devices includes one or more of a blood glucose monitor; a peak flow meter; a blood pressure monitor; a pulse monitor; and a body temperature monitor (see at least Allen Column:4 Lines:35-41)*

### **Claim 11**

The combination of Allen/Fu disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *at least one personal computer connected to the data management unit (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)*

### **Claim 12**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:



- *one report based on the health-related data* (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)

**Claim 17**

The combination of Allen/Fu disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *can generate the report;* (see at least Allen Fig:4 Items: 100-114 & related text)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

**Claim 18**

The combination of Allen/Fu disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *the system is configured to cause the presentation of at least one report on the display;* (see at least Allen Fig:4 Items: 102,110,114 & related text)

**Claim 19**

The combination of Allen/Fu disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *wherein the system can display statistical and/or trend information* (see at least Allen Fig:1 Items:10 & related text)

#### **Claim 20**

The combination of Allen/Fu disclose all of the limitations of claim 19. Allen further discloses the following limitation:

- *wherein the system can display the statistical or the trend information to the patient;* (see at least Allen Fig:1 Items:10 & related text)

#### **Claim 22**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the system is configured to transmit at least one message to the microprocessor device for viewing on the display;* (see at least Allen Column:1 Lines:6-11, Fig:1 Items:10& related text)

#### **Claim 24**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message includes results of a test* (see at least Allen Column:6 Lines:53-61)

#### **Claim 25**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *the message includes diagnostic information indicating whether a test has proceeded in a normal fashion* (see at least Allen Column:15 Lines:50-62)

#### **Claim 26**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message is a multi-line message* (see at least Allen Column:11 Lines:4-14)

#### **Claim 27**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *the message is a health care professional selected message* (see at least Allen Fig:4 Items:100, 104, 110-112 & related text)

#### **Claim 28**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the health care professional generates the selected message* (see at least Allen Fig:4 Items:100, 104, 110-112 & related text)

#### **Claim 29**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message is a educational or motivational* (see at least Allen Fig:4 Items:112, related text & Column:10 Lines:7-12 “The monitor is able to collect dietary information in three different way. The physician will specify which way the monitor should ask about food intake to reflect the way best suited for the individual patient based on his motivation and education in quantifying dietary intake.”)

**Claim 30**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the system is configured to transmit the message to a specific patient;* (see at least Allen Fig:4 Items:112-114 & related text)

**Claim 31**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the system is configured to transmit the message automatically to the patient* (see at least Allen Fig:4 Items:112-114 & related text)

**Claim 32**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the system enables the patient to choose when to receive the message*  
(see at least Allen Column:10 Lines:35-36 “Then the patient selects the review data option by pressing the RD key.”)

**Claim 33**

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message can be stored . . . before being transmitted to the patient;*  
(see at least Allen Column:14 Lines:19-23)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *in the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

**Claim 39**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the system is configured to transfer the computer programs . . . the microprocessor device in response to an input received at the microprocessor*

*device;* (see at least Allen Column:1 Items:50-68 Fig:4 Items:10, 100-114 & related text)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

#### **Claim 40**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the patient can indicate user experienced symptoms to the microprocessor device;* (see at least Allen Column:9 Lines:5-11)

#### **Claim 41**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the system can capture quantitative measurements* (see at least Allen Abstract: "A monitor system is provided which includes means for measuring blood glucose values and for generating glucose data signals, monitor means coupled to the measuring means and including means for inputting patient data,

means for transmitting and receiving data to and from the monitor means, and computing means for receiving glucose data signal in connection with administration treatment for diabetes mellitus.”)

**Claim 42**

The combination of Allen/Fu disclose all of the limitations of claim 41. Allen further discloses the following limitation:

- *wherein the system can capture medication data* (see at least Allen Column:2 Lines:28-47)

**Claim 43**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the collected patient health-related data includes time data* (see at least Allen Column:6 Lines:19-27 “The data thus entered sets a time value into the timer and "Channel O" signal from shift register output 12 subsequently initiates operation of the timer. Upon timeout of the timed interval timer 52 sends a signal to the MPU I/O control terminal B7, whereupon MPU takes the appropriate action, such as producing a "beep" sound through audio unit 13 and triggering a prescribed software routine to give the patient the necessary prompts, etc.”)

### **Claim 45**

**Allen as shown, discloses the following limitations:**

- *at least one microprocessor device including a display;* (see at least Allen Fig:1 Item:12 & related text)
- *and a memory;* (see at least Allen Fig:2 Items:152-154 & related text)
- *configured to collect the health-related data based on at least one health condition of the patient;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *remotely located;* (see at least Allen Fig:4 Items:100-106 related text)
- *communicating the health-related data from the microprocessor device to the central server;* (see at least Allen Fig:2 Items:66, Fig:4 Items:10-102-106 related text)
- *generating health-related information from the health-related data;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *putting at least one remotely-located health-care-professional computer;* (see at least Allen Fig:4 Items:100-106 related text)
- *receiving at the health care professional computer, the health related information;* (see at least Allen Column:4 Lines:51-63 Fig:4 Items:100-106 & related text)
- *transferring one or more computer programs . . . to the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10, 100-114 & related text)



- *the computer programs being executable by the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)
- *for collecting the health-related data;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)

Allen does not disclose the following limitations, however Fu, as shown does:

- *connecting at least one central server . . . ; from the microprocessor device;* (see at least Fu Fig:1 Items:10-62 & related text)
- *in signal communication with the microprocessor device;* (see at least Fu Fig:1 Items:10-62 & related text)
- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *in signal communication with the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the features of Fu into Allen. One of ordinary skill in the art would have added these feature into Allen with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

### **Claim 90**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *configured to transfer the computer programs . . . the microprocessor device;*  
(see at least Allen Column:1 Items:50-68 Fig:4 Items:10, 100-114 & related text)
- *automatically on a repeated basis;* (see at least Allen Column:12 Lines:4-7)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

### **Claim 91**

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the system is configured to transfer the computer programs . . . the microprocessor device in response to an input received at the health care professional computer;* (see at least Allen Column:1 Claim:8 Fig:2 Items:50-68 Fig:4 Items:10, 100-114 & related text)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into

Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

### **Claim 92**

The combination of Allen/Fu disclose all of the limitations of claim 45. Allen further discloses the following limitation:

- *transferring the computer programs . . . to the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10, 100-114 & related text)
- *automatically on a repeated basis;* (see at least Allen Column:12 Lines:4-7)

Allen/Beckers/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

### **Claim 93**

The combination of Allen/Fu disclose all of the limitations of claim 45. Allen further discloses the following limitation:

- *transferring the computer programs . . . the microprocessor device in response to an input received at the health care professional computer;* (see at least Allen Column:1 Fig:2 Items:50-68 Fig:4 Items:10, 100-114 & related text)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

Claims 47-48, 50-56, 61-64, 66, 68-77, 83 disclose substantially similar limitations as those found in system claims 3-4, 6-12, 17-20, 22, 24-33 & 39, and are rejected on the same grounds as stated above.

10. Claims 2, 5, 23 & 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Fu in further view of in view Beckers (US 5019974) (hereinafter Beckers)

## **Claim 2**

The combination of Allen/Fu disclose all of the limitations of claim 1. Beckers further discloses the following limitation:

- *stored program instructions for generating health-monitoring related information on the display;* (see at least Beckers Column:2 Lines:21-38)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

#### **Claim 5**

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the memory is a program cartridge;* (see at least Allen Fig:1, Fig:2 Items:152-154 & related text)

#### **Claim 23**

The combination of Allen/Fu disclose all of the limitations of claim 22. Beckers further discloses the following limitation:

- *wherein the message includes step-by-step instructions* (see at least Beckers Claim 1(c))

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more efficient and effective method and

system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

**Claim 34**

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 2.

Allen further discloses the following limitation:

- *wherein the system is configured to allow the patient to control the display of information using at least one menu* (see at least Allen Fig:2 Fig:4 Items:150-150a & related text)

**Claim 35**

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 34.

Allen further discloses the following limitations:

- *a display mode for displaying relevant information;* (see at least Allen Fig:1 Items:12 & related text)
- *an input mode for providing information; and* (see at least Allen Fig:1 Items:11 & related text)
- *a communications mode for establishing a link;* (see at least Allen Fig:4 Items:10, 100-110 & related text)

Allen/Beckers/Fu does not disclose the following limitation, however Fu, as shown does:

- *with the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

**Claim 36**

The combination of Allen/Beckers disclose all of the limitations of claim 34. Allen further discloses the following limitation:

- *the menu allows the patient to select a monitoring mode in which at least one health-monitoring device is used to monitor at least one health condition;* (see at least Allen Column:11 Lines: 41-55)
- *to communicate data related to the monitored condition;* (see at least Allen Fig:2 Items:66, Fig:4 Items:10-102-106 related text)

Allen/Beckers/Fu does not disclose the following limitation, however Fu, as shown does:

- *the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Beckers Column:1 Lines:43-67 Column:2 Lines:1-57)

**Claim 37**

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 34.

Allen further discloses the following limitation:

- *wherein the menu allows the patient to display messages or instructions from a health care professional; (see at least Allen Column:4 Lines:11-15)*

**Claim 38**

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 2.

Allen further discloses the following limitation:

- *wherein the system is configured to enable the patient to respond to information on the display by using a cursor or other indicator positioned at a selected item; (see at least Allen Column:4 Lines:50-67)*

Claims 46, 49, 67, & 78-82 disclose substantially similar limitations as those found in system claims 2, 5, 23 & 34-38, and are rejected on the same grounds as stated above.

11. Claims 13-16, 21, 44, 57-60, 65, and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Fu in further view of Yamamoto (US 4685059) (hereinafter Yamamoto).



**Claim 13**

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein at least one report is standardized* (see at least Yamamoto Fig:4 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

**Claim 14**

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *system is configured to allow a health care professional to select which of a plurality of standardized reports is produced* (see at least Yamamoto Column:15 Lines:5-28)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

**Claim 15**

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report uses graphs and/or icons* (see at least Yamamoto Fig:5 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

**Claim 16**

The combination of Allen//Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report can be generated periodically* (see at least Yamamoto Column:5 Lines:29-68 & Column:6 Lines:1-12)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

**Claim 21**

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report includes information data for a period of time* (see at least Yamamoto Fig:2, 4 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

**Claim 44**

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *the healthcare professional receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user* (see at least Yamamoto Column:5 Lines:13-28)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claims 57-60 & 65 disclose substantially similar limitations as those found in system claims 13-16 & 21 and are rejected on the same grounds as stated above.

### ***Response to Arguments***

12. Applicant's arguments received on 28 July 2009 have been fully considered but they are not persuasive.
13. In response to applicant's argument that the cited prior art is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.
14. In response to applicant's argument that the cited prior art fails to disclose "remotely located from", Examiner has considered applicant's argument and respectfully disagrees. (see at least Allen Column:6 Lines:63-67 ". . . remotely over the modem channel")
15. In response to applicant's argument that the cited prior art fails to disclose "in signal communication with the central unit 20'", Examiner has considered applicant's argument and respectfully disagrees. (see at least Fu Column:5 Lines:44-67 Column:6 Lines:1-12)

16. In response to applicant's argument that prior art source, Fu, does not disclose "remotely located", Examiner points out that this limitation is actually cited by prior art source Allen.
17. In response to applicant's argument regarding "master computer device", Examiner points out that this is not in the present claim language. Further, Examiner asserts that the cited prior art does indeed disclose the presently cited prior art.
18. In response to applicant's argument that the cited prior art fails to disclose "the monitor 10 executing computer programs received through the modem 106", Examiner has considered applicant's argument and respectfully disagrees. (see at least Allen Column:6 Lines:42-50 "Physician's computer 102 implements an algorithm for evaluating glucose and patient data from the monitor system . . . the prescribed algorithm . . . maybe adjusted in response to the evaluation and transmitted to the monitor 10 via the modem link.")
19. In response to applicant's argument that the cited prior art fails to disclose "facilitates collection of health-related data", Examiner has considered applicant's argument and respectfully disagrees. (see at least Allen Column:6 Lines:50-62 "evaluate glucose, insulin and behavioral data . . . Accumulated patient data . . .")
20. In response to applicant's argument that the cited prior art fails to disclose "transfers computer programs to the monitor 10.", Examiner has considered applicant's argument and respectfully disagrees pointing out that the relevant claim language is properly disclosed by the cited prior art, as defined in the present claims and specification. (see at least Specification [0023-0024])

21. In response to applicant's argument regarding the allowability of claims 11 & 54,

Examiner finds applicant's assertion to be unpersuasive and further to be unsupported.

22. In response to applicant's request that the Office further cite prior art which properly discloses the argued limitations for claim 83, Examiner specifically cites Allen Fig:2 Items:11-156 & the related text.

23. In response to applicant's argument for claims 90-93, Examiner points out that these claims are properly disclosed in the current Office Action. Further, Examiner apologizes for leaving these claims out of the previous Office Action.

24. Applicant's arguments for the allowability of claims 2-44, 46-88 & 90-93 are based on their dependency on the currently rejected independent claims, thus claims 2-44, 46-88 & 90-93 are rejected on the same grounds as addressed in the independent claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Rajiv J. Raj** whose telephone number is **(571) 270-3930**. The Examiner can normally be reached on Monday-Friday, 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Jerry O'Connor** can be reached at **571.272.6787**.

Official replies to this Office action may now be submitted electronically by registered users of the EFS-Web system. Information on EFS-Web tools is available on the Internet at: <http://www.uspto.gov/ebs/portal/tools.htm>. An EFS-Web Quick-Start Guide is available at: <http://www.uspto.gov/ebs/portal/efs/quick-start.pdf>.

Alternatively, official replies to this Office action may still be submitted by any **one** of fax, mail, or hand delivery. **Faxed replies should be directed to the central fax at (571) 273-8300**. Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

Date: 09/23/09  
/RJR/  
Patent Examiner Art Unit 3686

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
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